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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,989	12/13/2001	Gary J. Gracyalny	18367-9631-00	7644
7590 06/10/2005			EXAMINER	
Casimir F. Laska Michael Best & Friedrich LLP 100 East Wisconsin Avenue Milwaukee, WI 53202-4108			MILLER, CARL STUART	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/021,989	Applicant(s) GRACYALNY ET AL.	
	Examiner Carl S. Miller	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 20,21,23 and 24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47-53 is/are allowed.
- 6) ☒ Claim(s) 1-4,6-19,25-33 and 35-40 is/are rejected.
- 7) ☒ Claim(s) 5,22,34 and 41-46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 20-21 and 23-24 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9. The restriction requirement has been made final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-2, 4, 14-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyamoto.

In particular, Miyamoto teaches controlling flow to and from a fuel tank with two valves operated in parallel in the same housing (one being a vent valve).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9-13, 18, 26, 28, 29, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto.

In particular, Miyamoto specifically states that his device is for a small or portable engine. Lawnmowers use such engines, thus making this an obvious application for the Miyamoto device.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6, 25, 33, 35 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto in view of Sierk.

Miyamoto teaches two parallel valves mounted in the same housing, one closing a fuel flow conduit and the other controlling a vent. The valves are for portable engine such as one that would be used on a lawnmower, generator or pressure washer. Single cylinder engines are the norm in the art, but a multi-cylinder engine would have been an obvious choice for an application such as a generator which might require more power output than a typical lawnmower.

Sierk teaches a purely mechanical linkage used to turn a valve that stops fuel flow to an engine. The mechanical fuel flow cutoff is operated while the engine is still running.

It would have been obvious to modify Miyamoto by using a purely mechanical actuator to close the valves because this would have been a mere mechanical expedient commonly used in the art for the same purpose.

Claims 8 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto applied to claim 7 above, and further in view of Nofel.

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Nofel teaches the commonly known safety features of stopping a blade on a small engine device when an engine is stopped, thereby making this an obvious feature to add to the Miyamoto device.

Claims 38, 39, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto and Sierk as applied to claim 7 above, and further in view of Adams.

Adams teaches a vent on a small portable engine gas tank which includes baffle means to keep gasoline from splashing out through the vent, thereby making the use of a baffle on the vent of Miyamoto obvious.

Claims 5, 22, 25, 34 and 41-46 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 47-53 are allowed.

Applicant's arguments filed January 13, 2005 have been fully considered but they are not persuasive. In particular, the examiner has carefully considered applicant's arguments and has found them convincing only with regard to the rejection of claims 33 and 35 under 35 U.S.C. 102. This is because the device of Miyamoto is operable to manually stop the operation of the engine. For example, even though Miyamoto talks about cutting off the fuel manually after the engine is off, the valve is clearly operable while the engine is running to stop all fuel flow. This will, of course, cause the engine to stop.

With regard to the method claims 33 and 35, the Sierk reference teaches that it is known in the art to stop an engine by manually stopping all fuel flow

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while the engine is running, thus suggesting that the manual valve of Miyamoto could be used in this manner.

Applicant will note that since some of the claims are now rejected under new grounds without the change being precipitated by amendment, this action has been made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Miller whose telephone number is (571) 272-4849. The examiner can normally be reached on MTWTHF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen, can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carl S. Miller
Primary Examiner

Miller/PJ

04/26/05